

United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6175

BETTINA POIRIER, MAJORITY STAFF DIRECTOR
RUTH VAN MARK, MINORITY STAFF DIRECTOR

November 4, 2011

The Honorable Hillary Rodham Clinton
Secretary
U.S. Department of State
2201 C Street, NW
Washington, D.C. 20520

Dear Secretary Clinton:

I write to request information related to the environmental analysis of the Keystone XL pipeline. As the Chair of the Senate Committee on Environment and Public Works, I have an important responsibility for oversight related to environmental analysis required by the National Environmental Policy Act and other environmental laws. I very much appreciate your long-standing commitment to environmental protection, and know that you share the view that it is important that a full, robust, and independent analysis is completed for the project.

Multiple concerns have been raised about the Environmental Impact Statement (EIS) for the Keystone XL pipeline. I, along with six of my colleagues, previously wrote to you about pipeline safety and other concerns related to the project. In addition, recent press reports have raised issues regarding the analysis.

On October 7, 2011, the *New York Times* reported that the contractor selected to prepare the EIS, Cardno-Entrix, had financial ties to the pipeline operator, TransCanada. The article also states that TransCanada was allowed to screen potential contractors, and the State Department selected Cardno-Entrix at TransCanada's recommendation. The article suggests the selection of this company to carry out the EIS "flout[ed] the intent of a federal law meant to ensure an impartial environmental analysis of major projects."

The Environmental Protection Agency (EPA) previously highlighted shortcomings of the supplemental draft EIS, including inadequate assessment of the risk of harmful oil spills and response capabilities; insufficient analysis of alternatives to the proposed route, which crosses sensitive aquifers; and a failure to address environmental justice concerns, such as the potential impacts of air emissions on communities surrounding refineries.

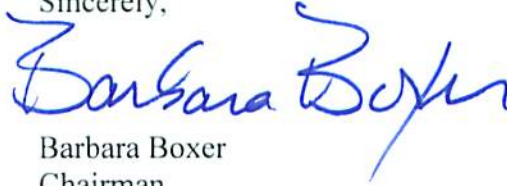
Following the nation's worst oil spill and at a time when the effects of global warming become more apparent every day, it is imperative that we have thorough and objective environmental assessments so that the public can fully understand the impacts of proposed projects.

In order to ensure the project is fully and appropriately examined, I want to bring to your attention some critical issues and ask that you review these before moving forward on any decision. As an initial step, I have attached a list of questions and requests for information related

to the environmental analysis of this project. So that these can be addressed in a timely manner, I ask that the information described in the attachment be provided by November 14, 2011.

I greatly appreciate your attention to this matter.

Sincerely,

A handwritten signature in blue ink, reading "Barbara Boxer". The signature is fluid and cursive, with the first name "Barbara" and last name "Boxer" clearly distinguishable.

Barbara Boxer
Chairman

ATTACHMENT

Please provide the following information to my staff by November 14, 2011:

1. Please describe:
 - a. whether the State Department's use of Cardno-Entrix at the recommendation of TransCanada was in full compliance with all statutory and regulatory requirements under the National Environmental Policy Act and other relevant federal laws;
 - b. whether Cardno-Entrix's relationship with TransCanada created a conflict of interest; and
 - c. if a conflict existed, how such conflict was disclosed.

In your response, please include an analysis of compliance with each relevant regulation, guidance, and policy that applies to the selection of a contractor to prepare the Keystone XL pipeline EIS and the evaluation of conflicts of interest for such contractors.
2. Please provide all documents related to any communication, analysis, or exchange of information by State Department staff regarding:
 - a. Cardno-Entrix's financial and business relationship to TransCanada;
 - b. whether the selection of Cardno-Entrix to prepare the Keystone XL pipeline EIS created a conflict of interest; and
 - c. if so, how such conflict is required to be disclosed.
3. Please provide all documents, including all contracts, describing the services Cardno-Entrix agreed to perform related to the Keystone XL pipeline EIS.
4. Oil spills along the pipeline route have the potential to affect sensitive aquatic resources, including regionally important aquifers, and can present clean up challenges. A recent spill in the Kalamazoo River in Michigan from a pipeline that also transported crude oil from tar sands created unique cleanup challenges. The cleanup is still ongoing more than a year after the spill. How were the issues being addressed in the Kalamazoo River spill response evaluated in the Final EIS?
5. In the Final EIS, the State Department, after consultation with EPA and the Pipeline and Hazardous Materials Safety Administration, indicated that it will require Keystone to commission an independent engineering analysis of the project risk assessment, which will include evaluation of additional spill detection measures and valves. However, this analysis has not been completed, making it impossible to know what, if any, additional measures will be implemented for the project. What is the timeline for completion of this analysis? Will it be available for public comment? Will a decision on approval of the Presidential Permit be delayed until the Department knows what additional measures, if any, will be implemented based on the analysis?
6. Is the State Department aware of any investigation or allegation regarding inadequate quality control procedures used by TransCanada in the construction of the Keystone 1 pipeline? If so, how did the Department use this information to evaluate the adequacy of the quality control processes in place for construction of the Keystone XL pipeline?